Recommended Water Transfer Actions

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Water transfers are intended to improve water supply reliability and to assist in the operation of the Environmental Water Account (EWA), a cornerstone of the CALFED preferred alternative. Water transfers by themselves do not develop new water supplies. However, they are an important tool to help reallocate existing supplies between users who have water to sell and those who want to buy it. To allow for this, California needs a robust and effective water market. Currently, the market is constrained by limitations, which when removed will improve market functions. The actions described in this paper can make water transfer processes more reliable, predictable and timely.

Realistically, some of the market limitations are beyond the immediate control of the CALFED Program. These include constraints created by county groundwater ordinances or other local actions, problems with lack of early involvement by some interests in the CEQA process, and issues regarding user vs. district control of transferable water.

However, CALFED will address limitations created by inadequate conveyance availability, uncertain and costly transaction processes, burdensome environmental compliance, and inadequate public disclosure. CALFED member agencies (USBR, DWR, and SWRCB) have legal and regulatory responsibility for review and approval of most water transfers and also have jurisdiction over many of the storage and conveyance facilities required to make water transfers work. These agencies are in a position to **improve or facilitate** the operations of the water market **within the existing legal framework.** This will allow transfers to be completed more efficiently while still providing necessary protection from unreasonable adverse impacts on the environment or other third parties.

Increase Conveyance Availability

Issue: There are three parts to this limitation: 1) physical and regulatory capacity in the Delta to pump additional water transfers, 2) policies governing access and costs of pumping transferred water at the Delta pumps, and 3) access to other parts of state/federal delivery systems (including storage) necessary to facilitate transfers. North-south transfers are extremely constrained by Delta pumping capacity limits caused by factors such as pumping for project needs and regulatory limits based on ESA or other environmental constraints, or water quality standards.

Actions: Capacity availability will be increased through the following:

1. Establish clear policies and protocols for the use of available conveyance and storage capacity in the existing facilities, including clarifying priorities for use of available capacity and how to process requests.
2. Dedicate a portion of increased Delta pumping capacity obtained through CALFED actions to the first right of refusal for water transfers involving non-project water. Define EWA purchases to have a priority above other transfers of non-project water. (*Refer to paper on South Delta Conveyance*).
3. Improve pumping and conveyance capacity forecasts and disclose through the On Tap web site, updated periodically. Forecasts include limiting factors and inherent risks to transporting water across the Delta or within project facilities (e.g., risk of pumping curtailments associated with biological or water quality requirements, project outages, etc.).
4. Adjust compensation rates for use of state or federal conveyance or storage facilities to ensure fairness to all parties. Non-project water should be conveyed at an incremental rate related only to the additional O&M incurred plus an appropriate charge for capital repayment.

Lower Transaction Costs

Issue: Every proposed water transfer is required to go through some type of transaction process. Though the details may vary from transfer to transfer, the procedural steps are similar. The transfer proponent must prove that the transfer has no adverse affects on other legal users of water and that it is environmentally benign (or that mitigating steps will be taken to offset any impacts). For transfers that have been shown to easily satisfy these requirements, proponents can easily assess the transaction costs. However, proponents that propose untested or innovative transfers will have greater uncertainty and risk when pursuing an outcome. Thus, transaction costs can be much higher. Some transfer proposals are also burdened with environmental compliance requirements that far outweigh their potential for environmental impact. For instance, many short-term transfers are environmentally benign, when looking solely at the potential impacts from the short-term change in water use. However, ESA and other environmental compliance requirements can force proponents to include mitigation requirements that are related to broader environmental issues.

Actions: Transaction costs will be reduced through the following:

5. Establish regional trading zones that allow intra-regional transfers that meet pre-defined criteria to be approved with reduced application requirements and regulatory review time. For transfers falling outside of regional zones, other actions can be implemented to pre-define what conditions must be met . These definitions can be created through agency agreements, orders, or guidelines. In some instances, they may require adoption of formal rules and/or regulations. This action will affect all transfers, including those for EWA and ERP instream flow augmentation. Defining criteria will require intense stakeholder interaction and deliberations. CALFED agencies will commit resources necessary to develop these criteria.
6. Modify review and approval procedures for all transfer types to allow for potential selling parties to pre-certify or clearly understand the rules related to certain out-of-region water transfers. In such cases, the exact destination (buyer) of the water may be unknown, but the conditions that define how much water is available to transfer and when it is available are fully understood. Thus, when a buyer needs water, whether it is the EWA or other water users, potential pre-certified sources will be available to be purchased in an expedited manner.
7. Reduce environmental compliance requirements. Legislation will be sought to extend the CEQA exemption available for 1-year transfers only to intra-regional transfers(as defined in #5 above) that are less than 5 years and that do not change the original use of the water (i.e., ag to ag transfers within the same region) or change the fundamental land use. For transfers involving a federal action, criteria will be developed that would allow both 1-year transfers and the same intra-regional transfer of less than 5-years to allow informal (instead of formal) ESA consultation. There will be no change to CEQA and NEPA compliance, or formal ESA consultation for transfers longer than 5 years or transfers outside of regions (see #8 below).
8. Develop strategies and other tools that will reduce the burden on long-term transfers proponent, including the EWA, to satisfy potential CEQA/NEPA mitigation requirements (environmental and socioeconomic). Long-term water acquisitions for the CALFED ERP will be used as models to develop these tools.
9. Define "carriage water " assessment parameters to allow full understanding by proponents of risks and responsibilities for transferring water across the Delta (north to south). CALFED agencies will facilitate a technical investigation in conjunction with the Bay-Delta Modeling Forum during the remainder of this year. The goal is to define the technical parameters that affect carriage water. Remaining policy issues will be defined through a joint DWR, USBR, SWRCB effort soon after technical parameters are established.

Increase Sharing of Market Information (Disclosure)

Issue: Potentially impacted third parties and local governments in source areas are gravely concerned that transfers will result in significant adverse local impacts. Limited understanding of water transfer

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application requirements, regulatory protections, and public input processes by these interests often lead to the creation of additional market limitations. Furthermore, many transfer proponents do not clearly understand required approval processes. This, as described above, increases risk and uncertainty and adds to transactions costs.

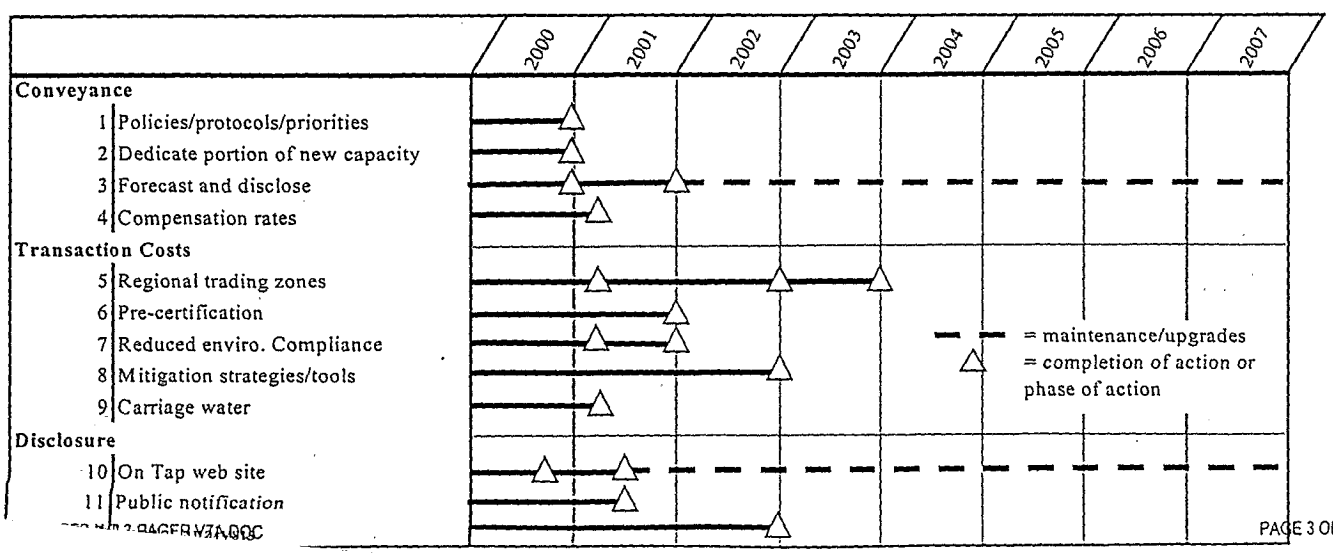
Actions: The sharing of water market information will be increased through the following:

10. Develop "On Tap" water transfer web site resource. This interactive tool will be a source for a) water transfer application procedures; b) publicly accessible databases for historic and pending water transfers; and c) an online public forum. Users will include DWR, USBR, and the SWRCB, as well as transfer proponents, lawyers, engineers, third party interests, public policy advocates and researchers. On Tap will communicate water market policies, procedures, and protocols, and provide a forum for debate and discussion of related issues. Reduced misinformation will increase overall understanding of the marketplace. The web site requires a commitment by the CALFED agencies to ensure that resources are available to maintain the site and continually improve its usefulness for the entire period of the CALFED Bay-Delta Program.
11. Publicly notice on the web site transfers pending approval by DWR, USBR, or SWRCB when formal review is initiated. Information regarding the agencies' public comment procedures will also be provided. These agencies will modify their current application acceptance protocols to ensure that new applications are posted soon after they are accepted as being complete.
12. To the extent permitted under existing law, DWR, USBR, and SWRCB will require transfer proponents to provide analysis of the impacts of a proposed transfer in three areas in addition to applicable CEQA/NEPA requirements (level of effort varies with characteristics of proposal). The analysis will include identifying potential: a) local groundwater impacts; b) local cumulative impacts; and c) local third-party socioeconomic impacts. The analysis will primarily be for information and disclosure purposes and would only be used as the basis to approve, condition or deny a transfer as otherwise permissible under current rules and procedures. CALFED agencies will define the minimum requirements for each of these impact assessment in conjunctions with development of regional trading zones (see #5 above). (*This is a consensus approach reached during CALFED facilitated stakeholders meetings. This is intended to address 3rd party concerns regarding disclosure of potential impacts.*)

Recommendation:

Support water transfers actions in the Preferred Alternative as set forth above with implementation schedule as shown in the timeline below.

Timeline: It is the intent to work aggressively to implement as many of these actions as possible prior to the next water transfer season.



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